



# RAVALLI COUNTY ATTORNEY

205 Bedford Street, Suite C, HAMILTON, MT 59840-2853  
Phone (406) 375-6750 Fax (406) 375-6731

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Ravalli County Commissioners

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TO: Planning  
CC: Commissioners ✓  
FROM: Alex Beal, Deputy AB  
DATE: August 7, 2007

RE: July 23, 2007 legal review questions/Family Transfer

Your July 23, 2007 request for legal review contained two questions related to Family Transfers that we discussed at our July 27, 2007 meeting, but that I wanted to put down in writing for clarity.

- Question #1

A property is owned jointly by two brothers. Each brother wishes to gift a parcel to his wife using the family transfer exemption. Can this happen simultaneously with one application? Does the interest in the property need to go to just one of the brothers followed by the transfer, then back to the other brother for another transfer?

The answer is that this cannot happen with one transfer. The gift must come from each and every owner of the property. As each wife is a sister-in-law (and thus not a member of the immediate family) of the brother she is not married to, she is not eligible to receive the property from that person, and thus not eligible to receive the property at all.

- Question #2

Section 4-5-2 (c) states; "One conveyance of a parcel to each member of the landowner's immediate family is eligible for exemption from subdivision review under MSPA and these regulations. However, the use of the exemption may not create more than one new parcel of per eligible family member."

Is the limit on the overall number of parcels one can receive per county (one) or the number of parcels one may receive from a given family member?

It is my opinion that this restriction applies to the number of properties that can be received, rather than gifted. The language refers to "the use of the exemption" rather than any specific gift. Thus it is clear on its face that it only allows the receipt of a single parcel in ones lifetime from any source. The intent of this exemption was to allow for a simple method to keep families on the land. This supports the clear language. I can conceive of no situation where receiving two parcels is helpful to promote that goal.